purporting to be a law of that class. When we incorporate these statutes in the charter, the case is brought within the wider doctrine that a person, natural or artificial, is estopped from setting up the unconstitutionality of a statute, after availing himself of its provisions. *Mayor* v. *Manhattan Ry.*, 143 N. Y. 1; see 21 HARV. L. REV. 133.

CONTRACTS — CONSTRUCTION — EXCEPTION OF HOLIDAYS FROM TIME ALLOWED BY CHARTER-PARTY FOR LOADING VESSEL. — By the terms of a charter-party the plaintiffs were to load the defendant's vessel "in seven weather working days (Sundays and holidays excepted)." For every day saved the plaintiffs were to be paid dispatch money; for every day in excess they were to pay demurrage. They loaded the vessel in seven days, the work being continued through two holidays, and sued for dispatch money for the two days saved. *Held*, that the plaintiffs cannot recover. *Nelson & Sons, Ltd.*, v. *Nelson Line, Liverpool, Ltd.*, [1907] 2 K. B. 705.

The court bases its decision on the theory that, although by the terms of the charter-party holidays would not count whether work was done on them or not, an agreement should be inferred that those holidays on which work was done were to count as working days. For this the court has the authority of two recent English decisions. *Whittall & Co.* v. *Rahtken's Shipping Co.*, [1907] 1 K. B. 783; *Branckelow S. S. Co.* v. *Lamport & Holt*, [1907] 1 K. B. 787; but see *Houlder* v. *Weir*, [1905] 2 K. B. 267. No American decision on the point has been found. Granting that some agreement may be implied, since the work could be done only with the acquiescence and assistance of the defendants, the court seems to have made inferences unwarranted in the absence of evidence. By the terms implied the defendants are not only enabled to dispatch their vessel two days ahead of contract time, but they secure this benefit without paying dispatch money; whereas the plaintiffs get no added benefit, and their liability for demurrage accrues two days earlier than it otherwise would. The implication of the court seems not only unwarranted, but unfair to the plaintiffs.

CORPORATIONS — DIRECTORS — DIRECTOR'S RIGHT TO SALARY WHEN QUALIFYING WITH SHARES HELD IN TRUST. — Corporation A purchased stock in corporation B and transferred it to X, a director of A, who made a declaration of trust in favor of A. X was thereafter elected a director in B, which required each director to be a shareholder. It appeared on the records of A that the stock transfer was made to enable X to become a director in B "to represent the interests of this company." *Held*, that the A company cannot recover the salary received by X from the B company. *In re Dover Coalfield Extension, Ltd.*, [1907] 2 Ch. 76.

It is undisputed that the proceeds of a trust *res* are held in trust. The question here is whether X's salary is proceeds resulting from the qualifying shares. It has been held, under a statute deferring payment of money due members of a corporation as members, that a director comes in as an ordinary creditor, although he is required to be a shareholder. *Ex parte Beckwith*, [1898] 1 Ch. 324. It would therefore follow that such salary is received as compensation for services rendered, and not as profits on the shares. Indeed, were it otherwise, it is difficult to see why any subsequent holder of such shares should not be entitled to similar profits. If it were X's duty as director in A to become a director in B, his salary might belong to A, but where as here a director is rendering service outside the course of his duty, he is entitled to compensation. *Rogers* v. *Hastings, etc., Co.*, 22 Minn. 25. Moreover it may be argued that X became a director in B to advance the interests of A rather than those of B, and therefore, since X and A are both fraudulent, equity will not assist either.

CRIMINAL LAW — PROCEDURE — NECESSITY FOR PLEA. — The record of the defendant's conviction for a felony showed that he was arraigned and entered a demurrer, which was overruled, whereupon he was tried and convicted. It did not show affirmatively that a plea had been entered by or for the defendant. There was the usual statute providing that convictions should not be set

aside for mere technical errors except where such errors actually tend to prejudice the defendant's rights. *Held*, that this omission is ground for a new trial. *State* v. *Walton*, 91 Pac. 490 (Ore.).

Decisions in accord rest on the ground that the record in criminal cases must show affirmatively that every step essential to a valid trial has been properly taken, and that it is essential that a plea be entered, since otherwise there would be no issue for the jury to try and hence no valid trial. *Crain* v. *United States*, 162 U. S. 625. But it has been held that the omission of a formal plea is not a fatal error when the defendant consented or acquiesced in proceeding to a trial on the merits, for no substantial right of the defendant is violated, since the state is put to the whole of the proof, just as if a plea of not guilty had been entered. *Martin* v. *Territory*, 14 Okl. 598. It has also been held that even if a plea is essential to a valid trial, it is sufficiently shown when it may be clearly and necessarily inferred from the whole record that a plea was entered. *Rex* v. *Fowler*, 4 B. & Ald. 273. The weight of authority, however, especially since the decision of the United States Supreme Court cited above, is decidedly in accord with the present case.

DECEIT — GENERAL REQUISITES AND DEFENSES — PROVISION IN CONTRACT FOR VERIFICATION. — In an action for deceit the lower court ruled that a clause in a contract providing that the plaintiff should verify the defendant's plans precluded the plaintiff from asserting that he had been induced to act by the defendant's representations. *Held*, that the provision does not as a matter of law bar the plaintiff's recovery, but that whether or not the plaintiff acted in reliance on the plans is a question for the jury. *Pearson & Son, Ltd.* v. *Lord Mayor, etc., of Dublin*, [1907] A. C. 351.

It has been held that where a contract is conditioned on the verification of the defendant's statement by an expert, and the plaintiff acts without such verification, his action for deceit is not necessarily barred. *Blacknall* v. *Rowland*, 108 N. C. 554. The exact question involved in the present case seems not to have been considered elsewhere. The case, however, is analogous to cases where the plaintiff in an action for deceit negligently failed to investigate the truth of the defendant's statements. Whether such negligence should bar the action is not settled. The better view, however, is that since the action is for a wilful tort, the plaintiff though negligent should recover. *Speed* v. *Hollingsworth*, 54 Kan. 436; *contra*, *Poland* v. *Brownell*, 131 Mass. 138; see 17 HARV. L. REV. 421. In a case like the one under discussion, moreover, the plaintiff should not be without redress if the provision requiring verification was inserted to induce a belief that investigation was not necessary. See *Blacknall* v. *Rowland*, *supra*. The present case is sound, therefore, in holding that such a provision does not preclude the plaintiff's proof of reliance on the defendant's representations.

EMINENT DOMAIN — COMPENSATION — RIGHTS OF EXECUTORY DEVISEE. — Land which had been devised to A in fee, subject to an executory devise over in favor of B if A died without issue living at her death, was taken by eminent domain. B sought to have the compensation secured to him in case the executory devise took effect. *Held*, that B has no rights in the fund. *Fifer* v. *Allen*, 81 N. E. 1105 (Ill.).

An executory devise is in many respects analogous to the inchoate right of dower. Neither is certain to vest, but neither can be destroyed. The vesting of either gives a complete legal estate. Most courts have long since overridden the technical objection that inchoate dower is a mere contingent right, and allow the wife rights in the compensation given under eminent domain. *Wheeler* v. *Kirtland*, 27 N. J. Eq. 534; *contra*, *Kauffman* v. *Peacock*, 115 Ill. 212; see 20 HARV. L. REV. 407. The value of her interest can be determined by mortality tables, but before their use became general the husband was ordered to secure one-third of the proceeds to her in case she survived, or else to put that share in trust until the death of one of them. *Crangle* v. *Borough of Harrisburg*, 1 Pa. St. 132. Although the present case has never arisen before, there seems to be no reason to deny the executory devisee similar relief. It is not against